

**BOARD OF ENVIRONMENTAL REVIEW**  
**AGENDA ITEM**  
**EXECUTIVE SUMMARY**  
**For Coalbed methane rules**

**AGENDA III.A.3.**

**AGENDA ITEM SUMMARY**

The Board initiated rulemaking for amendment of certain rules, and adoption of new rules, pertaining to coalbed methane development in 2005. The Board held three public hearings in Lame Deer, Miles City, and Helena. A public comment period on the proposed rules ended January 27. The Department received approximately 230 comments, in addition to those comments received at the public hearings.

Enclosed is a proposed notice of adoption, which includes summaries of the comments received, and proposed responses to comments drafted by the Department for the Board. Also enclosed are summaries of comments received on the economic impact statement and responses, the Department's recommendations for Board action on the adoption or rejection of the various provisions in the rules. The Department will provide a brief summary of the process to date and present the Department's recommendations. Staff will then be available to answer any questions the Board may have.

**LIST OF AFFECTED RULES**

Amendment of ARM 17.30.670, parts (6), (7) and (8); and new rules I through X. ARM 17.30.1202

**AFFECTED PARTIES SUMMARY**

Affected parties include all persons interested in the Department's approach to the regulation of coalbed methane production in Montana, and the tools used to protect beneficial uses of the waters of the Powder River Basin.

**SCOPE OF PROPOSED PROCEEDING**

Department staff will present the Department's recommendations for adoption or rejection of the provisions of the rules.

**HEARING INFORMATION**

Three public hearings were conducted by the Board in November and December of 2005.

**BOARD OPTIONS**

The Board may adopt the proposed rules and rule amendments, as proposed or with modifications; reject the proposed rules and rule amendments; or delay action on them. In order to delay action, the Board would need to publish a supplemental notice in the Montana Administrative Register.

**DEQ RECOMMENDATION**

The Department recommends that the Board NOT adopt changes so 17.30.1202, Definitions, and the Board NOT adopt New Rules I through X, requiring reinjection or treatment of CBM produced water.

The Department is willing to consider whether there exists a set of effluent limitations that is economically, environmentally, and technically feasible. The Department recommends that the Board either (1) reject the effluent limitations as proposed in the notice of hearing on these rules and request the Department to return to the Board, after performing the above analysis, with proposed effluent limitations and documentation of the technical, economic, and environmental feasibility and cost-effectiveness of those effluent limitations or (2) issue a supplemental notice to take further evidence regarding the economic, environmental, and technical feasibility of treatment to determine whether there are effluent limitations that are economically, technically, and environmentally feasible, and, if so, identify those limitations.

The Department recommends that the Board adopt the proposed changes in ARM 17.30.670(6), designating EC and SAR as harmful parameters for the purposes of nondegradation review, and ARM 17.30.670(8), eliminating the nonseverability provision.

For ARM 17.30.670(7), the Department recommends that the Board eliminate the requirement for the use of flow-based permitting, but that the Board NOT adopt the requirement to use the 7Q10 flow.

**ENCLOSURES**

1. Notice of Public Hearing on Proposed Amendment and Adoption
2. Draft Notice of Adoption
3. Department Recommendations
4. Summary of Comments on Economic Impact Statement and Responses